

No. 45068*

**South Africa
and
International Institute for Democracy and Electoral Assistance**

Agreement between the Government of the Republic of South Africa and the International Institute for Democracy and Electoral Assistance (IDEA) regarding the establishment of the IDEA Regional Office in South Africa. Pretoria, 27 September 2006

Entry into force: *27 September 2006 by signature, in accordance with article 13*

Authentic texts: *English*

Registration with the Secretariat of the United Nations: *South Africa, 18 June 2008*

**Afrique du Sud
et
Institut international pour la démocratie et l'assistance électorale**

Accord entre le Gouvernement de la République sud-africaine et l'Institut international pour la démocratie et l'assistance électorale (IDEA) portant création d'un Bureau régional de l'IDEA en Afrique du Sud. Pretoria, 27 septembre 2006

Entrée en vigueur : *27 septembre 2006 par signature, conformément à l'article 13*

Textes authentiques : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Afrique du Sud, 18 juin 2008*

* *The text reproduced below is the original text of the agreement as submitted. For ease of reference, it was sequentially paginated. The final UNTS version of it is not yet available. Le texte reproduit ci-dessous est le texte authentique de l'accord tel que soumis pour enregistrement. Pour référence, il a été présenté sous forme de la pagination consécutive. La version finale RTNU n'est pas encore disponible.*

[ENGLISH TEXT – TEXTE ANGLAIS]

Preamble

The Government of the Republic of South Africa and the International Institute for Democracy and Electoral Assistance (IDEA) (hereafter referred to in the singular as a “Party” and in the plural as the “Parties”)

NOTING that IDEA was established at a Founding Conference in Stockholm on 27 February 1995 by Agreement between the following countries: Australia, Barbados, Belgium, Chile, Costa Rica, Denmark, Finland, Norway, Portugal, South Africa, Spain and Sweden;

RECOGNISING that IDEA has been established in order to nurture and support sustainable democracy worldwide;

RECALLING the decision of IDEA’s Council in June 2003 to establish regional offices for Africa and Asia in order to provide a base of IDEA’s operations in each Continent and to assist liaison with IDEA Member States;

DESIRING to establish IDEA’s regional office for Africa and the Middle East in South Africa;

CONSIDERING that it is desirable to conclude an agreement to regulate certain matters relating to the establishment of the IDEA regional office for Africa and the Middle East;

HEREBY AGREE as follows:

ARTICLE 1
Definitions

Section 1

In this Agreement the expression:

- (a) “*appropriate Republic of South Africa authorities*” means such national or other authorities in the Republic of South Africa as may be responsible in the context and in accordance with the laws and customs applicable in the Republic of South Africa;
- (b) “*archives of IDEA*” includes all records, correspondence, documents, manuscripts, computer records, still and motion pictures, films and sound recordings, belonging to or held by IDEA in the Republic of South Africa in furtherance of its constitutional functions;
- (c) “*Country*” means the Republic of South Africa;
- (d) “*Government*” means the Government of the Republic of South Africa;
- (e) “*Secretary-General*” means the Secretary-General of IDEA;

- (f) “*Regional Head of IDEA*” means the Regional Director for Africa and the Middle East of International IDEA based in Pretoria, Republic of South Africa;
- (g) “*IDEA Office*” means the Regional Offices of the International Institute for Democracy and Electoral Assistance in the Republic of South Africa;
- (h) “*member of the family*” means –
 - (i) the spouse;
 - (ii) any unmarried child under the age of 21 years;
 - (iii) any unmarried child between the ages of 21 and 23 years who is undertaking full-time studies at an education institution;
 - (iv) and any other unmarried child or other family member officially recognised as a dependant member of the family by IDEA; and who is issued with a diplomatic and official passport.
- (i) “*officials of IDEA*” means the professional staff assigned to IDEA in the Republic of South Africa, with the exception of those locally recruited staff who are not professional staff;
- (j) “*property and assets of IDEA*” means all property, including funds, income and other assets, belonging to IDEA or held or administered by IDEA in furtherance of its constitutional functions;
- (k) “*premises of IDEA*” means the office premises IDEA utilises for its official functions in the Republic of South Africa;
- (l) “*telecommunications*” means an emission, transmission or reception of written or verbal information, images, sound or information of any nature by wire, radio, satellite, optical fibre or any other electronic or electromagnetic means;

ARTICLE 2
Establishment of Offices

Section 2

1. The Government agrees to the establishment of an IDEA Office in the Country in order to perform its functions within its mandate, including but not limited to:
 - (i) promote and advance sustainable democracy in the region;
 - (ii) improve and consolidate democratic electoral processes in the region;
 - (iii) broaden the understanding and promote the implementation and dissemination of the norms, rules and guidelines that apply to multi-party pluralism and democratic processes;
 - (iv) strengthen and support national and regional capacity to develop the full range of democratic instruments;

- (v) provide a meeting-place for exchanges between all those involved in electoral processes in the context of democratic institution-building;
 - (vi) increase knowledge and enhance learning about democratic electoral processes; and
 - (vii) to promote transparency and accountability, professionalism and efficiency in the electoral process in the context of democratic development.
2. To achieve these goals the IDEA Office expects to engage in activities such as the following:
- (i) develop networks in the region (e.g. African Union, Pan-Africa Parliament, AAEA, SADC, ECOWAS and IGAD) in the sphere of electoral processes;
 - (ii) establish and maintain information services;
 - (iii) provide advice, guidance and support on the role of government and opposition, political parties, electoral commissions, an independent judiciary, the media and other aspects of the electoral process in a pluralistic democratic context;
 - (iv) encourage research and the dissemination and application of research findings within IDEA's sphere of competence;
 - (v) organize and facilitate seminars, workshops and training on free and fair elections in the context of pluralistic democratic systems; and
 - (vi) engage in other activities related to elections and democracy as the need arises.

ARTICLE 3
Juridical Personality

Section 3

The Government recognises the juridical personality of the IDEA Office and in particular its capacity:

- (a) to contract;
- (b) to acquire and dispose of immovable and movable property; and
- (c) to institute juridical proceedings.

Section 4

The IDEA Office shall enjoy in furtherance of its official functions, and subject to the provisions of this Agreement, treatment not less than favourable than that accorded to organisations of the United Nations. IDEA shall have the right to display and make use at all time of the emblem of IDEA.

ARTICLE 4
Inviolability of the Premises

Section 5

- (a) The premises of the IDEA Office shall be inviolable. The property and assets of the IDEA Office, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process, except insofar as in any particular case immunity shall have expressly been waived by the Secretary-General or the Regional Head of IDEA. Waiver of immunity from legal process shall not be held to imply waiver of immunity in respect of any measure of execution, for which a separate waiver shall be necessary.
- (b) No official of the Country or person exercising any public authority within the Country shall enter the premises to perform any duties therein except with the consent of and under conditions approved by the Regional Head of IDEA. The Regional Head of IDEA's consent to such entry shall be presumed in the event of fire or other analogous emergency requiring urgent action.
- (c) The premises shall not be used in any manner incompatible with the mandate of IDEA.

Section 6

The archives of IDEA belonging to, or held by, it shall be inviolable.

Section 7

With respect to all official activities, the IDEA Office, its assets, income and property shall be exempt from all forms of direct taxation, however, IDEA shall not claim exemption from taxes which are no more than charges for public utility services.

Section 8

The IDEA Office shall be exempt from customs duties, prohibitions and restrictions on goods imported or exported for its official purposes, including publications. It is understood, however, that articles imported under such exemptions will not be sold in the Country except under conditions agreed to with the Government.

Section 9

While the IDEA Office will not, as a general rule, claim exemption from excise duties and from taxes on the purchase or sale of movable and immovable property forming part of the property and assets of IDEA, which form part of the price to be paid, nevertheless when the IDEA Office makes important purchases of such property for official use, on which such duties and taxes have been charged or are chargeable, the Government will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

ARTICLE 5
Financial Transactions

Section 10

Without being restricted by financial controls, regulations or moratoria of any kind, IDEA may, in order to carry out its activities:

- (a) hold funds and currency of any kind and operate accounts in any currency; and
- (b) freely transfer its funds and currency to and from the Country, and convert any currency held by it into any other currency,

ARTICLE 6
Communications

Section 11

IDEA shall enjoy, for its official communications, treatment not less favourable than that accorded by the Country to any other Government, including the latter's diplomatic mission, in the matter of priorities, rates and taxes on mail, cables, telegrams, radiograms, telephotos, telephone and other communications, and press rates for information to the press and radio.

Section 12

- (a) No censorship shall be applied to the official correspondence and other official communications of IDEA.
- (b) IDEA shall have the right to use codes and to dispatch and receive correspondence by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.
- (c) Nothing in this section shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between the Government and IDEA.

ARTICLE 7
Officials of IDEA

Section 13

The Government shall accord to:

- (a) The Regional Head of IDEA, the same privileges and immunities, exemptions and facilities as accorded to officials of comparable ranks forming part of diplomatic missions.

- (b) Officials of IDEA who are not nationals or permanent residents of the Country, the following privileges and immunities:
 - (i) immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity;
 - (ii) exemption from taxation on the salaries and emoluments paid to them by IDEA;
 - (iii) immunity, together with members of their family, from immigration restrictions and alien registration;
 - (iv) the same privileges in respect of exchange facilities as are accorded to the officials of comparative ranks forming part of diplomatic missions to the Government;
 - (v) together with members of their families, the same repatriation facilities in time of international crisis as diplomatic envoys;
 - (vi) the right to import free of duty their furniture and effects at the time of first taking up their post in the Country.

- (c) Officials of IDEA who are nationals or permanent residents of the Country immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity.

Section 14

Privileges and immunities are granted to officials in the interests of IDEA only and not for the personal benefit of the individuals themselves. The Secretary-General or the Regional Head of IDEA shall have the right and the duty to waive the immunity of any official in any case where, in his or her opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of IDEA.

Section 15

IDEA shall co-operate at all times with the appropriate authorities of the Government to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuses in connection with the privileges, immunities and facilities mentioned in this Article.

Section 16

The IDEA Office shall inform the Government in a timely manner of the names, ranks and designations of its officials.

ARTICLE 8
Representatives of Members

Section 17

Representatives of Members of IDEA, who are not nationals of the Country, at meetings convened by IDEA in the Country shall, while exercising their functions and

during their journeys to and from the place of meeting, enjoy the privileges and immunities as set out below:

- (a) immunity from personal arrest or detention and from seizure of their personal baggage and, in respect of words spoken or written and all acts done by them in their capacity as representatives, immunity from legal process of every kind;
- (b) inviolability of papers and documents;
- (c) the right to use codes and to receive papers or correspondence by courier or in sealed bags;
- (d) exemption in respect of themselves and members of their family, from immigration restrictions and alien registrations;
- (e) the same facilities in respect of currency or exchange restrictions as are accorded to officials of comparable rank of diplomatic missions;
- (f) the same immunities in respect of their personal baggage as are accorded to diplomatic envoys.

Section 18

Privileges and immunities are accorded to the representatives not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with IDEA. Consequently a Member of IDEA not only has the right, but is under a duty to waive the immunity of its representative in any case where in the opinion of the Member of IDEA the immunity would impede the course of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded.

ARTICLE 9

Experts or visiting IDEA Staff on Missions for IDEA

Section 19

Experts or visiting IDEA staff, other than officials or the Secretary-General, performing missions for IDEA shall be accorded the privileges and immunities as set out below:

- (a) immunity from arrest or detention and from seizure of their personal baggage;
- (b) in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind. This immunity from legal process shall continue to be accorded notwithstanding that the persons concerned are no longer employed on missions for IDEA;
- (c) inviolability of papers and documents;
- (d) for the purpose of their communications with IDEA the right to use codes and to receive papers or correspondence by courier or in sealed bags;
- (e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;
- (f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.

Section 20

Privileges and immunities are granted to visiting IDEA staff and to experts in the interests of IDEA and not for the personal benefit of the individuals themselves. The Secretary-General or the Regional Head of IDEA, as the case may be, shall have the right and the duty to waive the immunity of any visiting IDEA staff or expert in any case where, in his or her opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of IDEA.

ARTICLE 10

Visas

Section 21

Applications for visas, where required, from officials of IDEA, representatives of Members of IDEA or visiting IDEA staff shall be dealt with as speedily as possible.

ARTICLE 11

Amendments

Section 22

This Agreement may be modified by written agreement between the Parties hereto. Each Party shall give full consideration to any proposal advanced by the other Party under this Section.

ARTICLE 12

Settlement of Disputes

Section 23

Any dispute between the Parties arising out of or relating to this Agreement that cannot be settled by negotiation or other agreed mode of settlement shall be submitted to arbitration at the request of either Party. For the purposes of the implementation of this Section:

- (a) each Party shall appoint one arbitrator and advise the other Party of the name of its arbitrator. Should the arbitrators fail to agree they shall immediately appoint an umpire. In the event that within thirty (30) days of the request for arbitration either Party has not appointed an arbitrator, or that the arbitrators appointed fail to agree on the appointment of an umpire, either Party may request the President of the International Court of Justice to appoint an arbitrator or an umpire, as the case may be;
- (b) a majority vote of the arbitrators shall be sufficient to reach a decision, including decisions on procedural matters, which shall be final and binding; and

- (c) the expenses of arbitration shall be borne by the Parties as laid down in the arbitral award.

ARTICLE 13

Entry into Force, Duration and Termination

Section 24

- (a) This Agreement shall be subject to signature by the Parties. The date of entry into force shall be the date of last signature.
- (b) This Agreement shall remain in force unless terminated by either Party by written notice to the other and shall terminate six (6) months after receipt of such notice. Notwithstanding any such notice of termination, this Agreement shall remain in force until complete fulfilment or termination of all obligations entered into by virtue of this Agreement.
- (c) The obligations assumed by the Government shall survive the termination of this Agreement under the foregoing sub-Section (b), to the extent necessary to permit orderly withdrawal of the property, funds and assets of IDEA and officials of IDEA by virtue of this Agreement.

IN WITNESS WHEREOF the undersigned, being duly appointed representatives of the Parties, respectively, have on behalf of the Parties signed this Agreement in duplicate in the English language.

DONE at Pretoria this 27 day of September 2006

Nezuma
FOR THE GOVERNMENT
OF THE REPUBLIC OF
SOUTH AFRICA

Kwena Helgerson
FOR THE INTERNATIONAL
INSTITUTE FOR DEMOCRACY
AND ELECTORAL ASSISTANCE